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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,456	03/25/2004	John B. McAdams	315-101P-WLK	4857

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/808,456	Applicant(s) MCADAMS ET AL.	
	Examiner Dmitry Suhol	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 17 and 20, it is unclear the limitations of “printed or displayed matter” and “printed or displayed Braille type code” are the same thing or different things since both can be construed as printed matter or displayed matter. Claim 20 is rejected due to the same reasoning (i.e. is the step of printing or displaying matter on the medium the same step as encompassed by claim 19. For purposes of examination it is assumed that they are separate.

Regarding claim 2, the claim requires printed matter and printed Braille type code, however the claim depends from claim 1 which stipulates that the matter and Braille type code may be merely displayed and not necessarily printed, therefore it is not clear if applicants are claiming displayed matter and Braille type code or printed matter and displayed type code or if the two displayed and printed are the same thing.

Regarding claim 3, the claim sets for the provision that printed matter and Braille type code are printed on different medium, however the claim is depended from claim 2 which requires that the printed matter and Braille type code is printed on the same

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medium, therefore the two claims appear to contradict each other. It is not clear where the printed matter and Braille type code is placed in relation to each other. For purposes of examination it is assumed that a portion of printed matter is placed in the same medium as the Braille type code and a portion is placed on a different medium.

Regarding claims 5 and 6, there is no antecedent basis for "said medium". The claim is dependent from claim 2 which in turn is dependent from claim 1, where claim 1 provides for at least one support medium (implying that there may be more than one), therefor it is not clear if applicants intend to encompass "the same medium" as recited in claim 2 or different medium altogether by the phrase "said medium". For purposes of examination it is assumed that applicants are referring to "the same medium" of claim 2.

Regarding claim 7, the location of the Braille type code in relation to the printed matter conflicts with the location of the two described in parent claim 5, therefore the location of the two can not be determined.

Regarding claim 12, there is no antecedent basis for "said page".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Phelps '964. Phelps discloses a Braille device containing all of the elements of the claims

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including, at least one support medium (pages 3-4 and 4a) as required by claim 1, printed matter supported by at least one medium (figure 4) as required by claim 1, printed or displayed Braille type code supported by said at least one medium (figure 4) as required by claim 1. Printed matter and printed Braille type code being printed on the same medium, as required by claim 2, is shown in figure 4, where the card 4A has both Braille type code and printed matter (i.e. the title "Mary had a little lamb"). Printed matter and Braille type code being printed on different medium, as required by claims 3 and 4, is also shown in figure 4 where the Braille type is printed on card 4A while printed matter is printed on page 3. Printed matter being located on one portion of the medium and the Braille type code located on a different portion of the medium, as required by claim 5, is shown in figure 4 where it can be seen that the printed matter "Mary had a little lamb" is located at the portion above the Braille type code. Printed matter being located on one portion of the medium and the Braille type code located on the same portion of the medium, as required by claims 6 and 7 (as best understood), is shown in figure 4 where it can be seen that the printed matter "Mary had a little lamb" is located at the top half portion as is the Braille type code (i.e. for purpose of claim 6, "the same portion" is defined as the upper half portion of card 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bail (GB 2184588) in view of Phelps '964. Bail discloses a Braille type device containing most of the elements of the claims including, at least one support medium (pages of documents described at page 1, line 130 through page 2, lines 1-4 and shown in figure 2) as required by claims 1 and 17, printed Braille type code (figure 3) as required by claims 1, 17 and 19. Braille type code being a bar code, as required by claim 8, is shown in figure 3. The Braille type code being two dimensional as required by claim 10, is shown in figure 3. The Braille type bar code including multiple types of Braille type bar codes, as required by claim 16, is described at page 1, lines 122-129. A Braille type scanning device, as required by claims 17 and 18, is shown as the scanner in figure 1.

Phelps discloses a book which is usable by sighted people and visually impaired people which teaches that it is know to combine additional printed matter, as required by claims 1 and 20, (i.e. text and picture in a book) along with Braille type code (figure 4) in a fashion such that both are supported by at least one medium (i.e. page).

Therefore it would have been obvious to provide the pages of documents of Bail with both the Braille type bar coding and other printed matter for the purpose of providing books which are usable by both sighted people and visually impaired people.

Furthermore additional printed or displayed matter is considered to be a design choice since the applicants clearly state that their book may not have any additional printed matter (see applicants specification page 15, lines 15-20).

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Regarding the dimensionality of the Braille bar code as required by claims 9 and 11, it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention to have manufacture the bar codes of Bail as a two or three dimensional bar code for the purpose of holding varying amounts of information and since the examiner takes official notice that such bar code construction is well known in the art.

Regarding the positioning of the Braille type bar code, as required by claims 12-15, and the additional printed matter as required by claim 1. It would have been obvious to one having ordinary skill in the art at the time of the claimed invention to place the Braille type bar code in any location on the page since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of placement for the Braille code does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter (e.g. Braille bar code location or additional printed matter) and the substrate (support medium) which is required for patentability. Additionally the location of the placement of the Braille bar code is considered to be a design choice since applicants do not disclose any

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advantage or criticality for such placement (see applicants specification page 15, lines 15-20).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds

Dmitry Suhol
